

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JIMMY PARKER, JR.

Plaintiff,

v.

CIVIL ACTION NO. 1:18-cv-01069

BARBARA RICKARD, Warden,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C. § 636(b) (1) (B). Magistrate Judge Aboulhosn submitted to the court his Findings and Recommendation ("PF&R") on February 6, 2019, in which he recommended that the district court deny plaintiff's Motion Requesting Relief & Summary Judgment for Failure to Comply with Rule 1(b) and 4 of the Rules Governing 2254 Cases in the United States District Courts (ECF No. 18) and grant defendant's Motion to Dismiss (ECF No. 20).

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge Aboulhosn's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such

party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's Findings and Recommendation within the seventeen-day period. Having reviewed the Findings and Recommendation filed by Magistrate Judge Aboulhosn, the court adopts the findings and recommendations contained therein. Accordingly, the court **FINDS** that the plaintiff has failed to sustain his burden of showing the inadequacy or ineffectiveness of a Section 2255 Motion and his Section 2241 Petition should be dismissed. Therefore, the court hereby **DENIES** plaintiff's Motion Requesting Relief & Summary Judgment for Failure to Comply with Rule 1(b) and 4 of the Rules Governing 2254 Cases in the United States District Courts (ECF No. 18), **GRANTS** defendant's Motion to Dismiss (ECF No. 20), and **MOVES** this matter from the court's docket.

Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c) (2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable.

Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to plaintiff and counsel of record.

IT IS SO ORDERED this 29th day of August, 2019.

ENTER:



David A. Faber
Senior United States District Judge